

community to be a federally registered broker/dealer, to sell A's stock in a publicly traded corporation. B, in turn, places an order to sell the stock with C, a second broker, which will execute the sale. B discloses to C the identity of the customer placing the order. C is not required to make a return of information with respect to the sale because C was instructed by B, an exempt recipient as defined in paragraph (c)(3)(i)(B)(6) of this section, to initiate the sale. B is required to make a return of information with respect to the sale.

Example (2). The facts are the same as in Example (1) except that B has an omnibus account with C so that B does not disclose to C whether the transaction is for a customer of B or for B's own account. C is not required to make a return of information with respect to the sale because C was instructed by B, an exempt recipient as defined in paragraph (c)(3)(i)(B)(6) of this section, to initiate the sale. B is required to make a return of information with respect to the sale.

Example (3). D, an individual who is not an exempt recipient, enters into a "cash on delivery" ("COD") stock transaction by instructing K, a federally registered broker/dealer, to sell stock owned by D, and to deliver the proceeds to L, a custodian bank. In addition, concurrently with the above instructions, D instructs L to deliver D's stock to K (or K's designee) against delivery of such proceeds from K. The records of both K and L with respect to this transaction show an account in the name of D. Pursuant to paragraph (h)(1) of §1.6045-1, D is considered the customer of K and L. Under paragraph (c)(3)(iii) of this section, K is not required to make a return of information with respect to the sale because K will pay the gross proceeds to L against delivery of the securities sold. L is required to make a return of information with respect to the sale.

Example (4). The facts are the same as in Example (3) except that E, a federally registered investment adviser who regularly acts as a broker within the meaning of paragraph (a)(1) of §1.6045-1, instructs K to sell stock owned by D and to deliver the proceeds to L. In addition, concurrently with the above instructions, E instructs L to deliver D's stock to K (or K's designee) against delivery of such proceeds from K. The records of both K and L with respect to this transaction show an account in the name of E. Pursuant to paragraph (h)(1) of §1.6045-1, E is considered the customer of K and L. Under paragraph (c)(3)(iii) of this section, K is not required to make a return of information with respect to the sale because K will pay the gross proceeds to L against delivery of the securities sold. In addition, L is not required to make a return of information with respect to the sale because L's customer, E, is another broker which is an exempt recipient. E is required to make a return of infor-

mation with respect to the sale. The result would be the same even if the records of K and L with respect to this transaction show an account in the name of D.

Example (5). F, an individual who is not an exempt recipient, owns bonds that are held by G, a federally registered broker/dealer, in an account for F with G designated as nominee for F. Upon the retirement of the bonds, the gross proceeds are automatically credited to the account of F. G is required to make a return of information with respect to the retirement because G is the broker responsible for making payment of the gross proceeds to F.

[T.D. 7960, 49 FR 22282, May 29, 1984]

PART 6a—TEMPORARY REGULATIONS UNDER TITLE II OF THE OMNIBUS RECONCILIATION ACT OF 1980

Sec.

6a.103A-1 Interest on mortgage subsidy bonds.

6a.103A-2 Qualified mortgage bond.

6a.103A-3 Qualified veterans' mortgage bonds.

6a.6652(g)-1 Failure to make return or furnish statement required under section 6039C.

AUTHORITY: 26 U.S.C. 7805.

Sections 6a.103A-2(k), (l), and (m) also issued under 26 U.S.C. 103A(j) (3), (4), and (5).

§6a.103A-1 Interest on mortgage subsidy bonds.

(a) *In general*—(1) *Mortgage subsidy bond.* A mortgage subsidy bond shall be treated as an obligation not described in section 103 (a)(1) or (a)(2). Thus, the interest on a mortgage subsidy bond is includable in gross income and subject to Federal income taxation.

(2) *Exceptions.* Any qualified mortgage bond and any qualified veterans' mortgage bond shall not be treated as a mortgage subsidy bond. See §6a.103A-2 with respect to requirements of qualified mortgage bonds and §6a.103A-3 with respect to requirements of qualified veterans' mortgage bonds.

(3) *Additional requirement.* In addition to the requirements of §6a.103A-2, §6a.103A-3, and this section, qualified mortgage bonds and qualified veterans' mortgage bonds shall be subject to the requirements of section 103(c) and the regulations thereunder.

(4) *Advance refunding.* On or after December 5, 1980, no tax-exempt obligation may be issued for the advance refunding of a mortgage subsidy bond (determined without regard to section 103A(b)(2) or § 6a.103A-1(a)(2)). An obligation issued for the refunding of a mortgage subsidy bond will be considered to be an advance refunding obligation if it is issued more than 180 days before the prior issue is discharged.

(5) *Registration.* Any obligation that is part of a qualified mortgage bond issue or qualified veterans' mortgage bond issue and which is issued after December 31, 1981, must be in registered form. The term "in registered form" has the same meaning as in § 1.6049-2(d). Thus, in general, an obligation is issued in registered form if it is registered as to both principal and interest and if its transfer must be effected by the surrender of the old instrument to the issuer and by either the reissuance of the old instrument to a new holder or the issuance of a new instrument to a new holder.

(b) *Definitions.* For purposes of §§ 6a.103A-2, 6a.103A-3, and this section the following definitions apply:

(1) *Mortgage subsidy bond.* (i) The term "mortgage subsidy bond" means any obligation which is issued as part of an issue a significant portion of the proceeds of which is to be used directly or indirectly to provide mortgages on owner-occupied residences.

(ii) For purposes of subdivision (i), a significant portion of the proceeds of an issue is used to provide mortgages if 5 percent or more of the proceeds are so used.

(2) *Mortgage.* The term "mortgage" includes deeds of trust, conditional sales contracts, pledges, agreements to hold title in escrow, and any other form of owner financing.

(3) *Bond.* The term "bond" means any obligation. The term "obligation" means any evidence of indebtedness.

(4) *State.* (i) The term "State" includes a possession of the United States and the District of Columbia.

(ii) For purposes of subdivision (i), obligations issued by or on behalf of any State or local governmental unit by constituted authorities empowered to issue such obligations are the obli-

gations of such governmental unit. See § 1.103-1(b).

(5) *Proceeds.* The term "proceeds" includes original proceeds and investment proceeds. The terms "original proceeds" and "investment proceeds" shall have the same meaning as in § 1.103-13(b)(2). Unless otherwise provided in § 6a.103A-2 or this section, however, amounts earned from the investment of proceeds which are derived from qualified mortgage bonds in non-mortgage investments may not be commingled for the purposes of accounting for expenditures with other non-bond amounts, and such proceeds are investment proceeds even though not treated as investment proceeds for purposes of section 103(c). Repayments of principal on mortgages shall be treated as proceeds of an issue. Amounts (such as State appropriations or surplus funds) which are provided by the issuer or a private lender in conjunction with a qualified mortgage bond or a qualified veterans' mortgage bond shall not be treated as proceeds of a mortgage subsidy bond under this section. However, fees which are paid by a participating financial institution pursuant to an agreement with the issuer whereby such institution receives the right to originate or service mortgages and which are retained by an issuer are treated as original proceeds of the issue. Amounts provided by the issuer or a private lender may be treated as proceeds of an issue for purposes of section 103(c).

(6) *Single-family and owner-occupied residences.* Except for purposes of § 6a.103A-2 (g) and (h)(2)(ii), the terms "single-family" and "owner-occupied," when used with respect to residences, include two-, three-, and four-family residences—

(i) One unit of which is occupied by the owner of the units, and

(ii) Which were first occupied as a residence at least 5 years before the mortgage is executed.

[T.D. 7780, 46 FR 34314, July 1, 1981; 46 FR 37890, July 23, 1981, as amended by T.D. 7794, 46 FR 55514, Nov. 10, 1981]

§ 6a.103A-2 Qualified mortgage bond.

(a) *In general—*(1) *Qualified mortgage bond.* A qualified mortgage bond shall not be treated as a mortgage subsidy